



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/147,237	04/20/99	YAGI	E TOS-123-USA

TOWNSEND & BANTA
1225 EYE STREET NW
SUITE 500
WASHINGTON DC 20005

HM12/0615

EXAMINER

PRATS, F

ART UNIT

PAPER NUMBER

1651

DATE MAILED:

06/15/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/147,237

Applicant(s)

Eiichiro Yagi et al

Examiner

Francisco C. Prats

Group Art Unit

1651



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-14 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-14 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1651

DETAILED ACTION

1. Claims 1-14 are presented for examination

Election/Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-4, drawn to glutathione-containing therapeutic compositions.

Group II, claim(s) 5 and 6, drawn to Scutellaria root extract-containing therapeutic compositions.

Group III, claim(s) 7 and 8, drawn to linden extract-containing therapeutic compositions.

Group IV, claim(s) 9 and 10, drawn to clove extract-containing compositions.

Group V, claim(s) 11 and 12, drawn to Geranium herb extract-containing compositions.

Art Unit: 1651

Group VI, claim(s) 13 and 14, drawn to rosemary extract-containing compositions.

3. The inventions listed as Groups I through VI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Each of the groups recite a different product having different ingredients. Thus, a reference anticipating one of the groups would not necessarily anticipate or even render obvious any of the other groups. In such a situation a general inventive concept clearly is not present.

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must

Art Unit: 1651

be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F.C. Prats whose telephone number is (703) 308-3665.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Michael G. Wityshyn, can be reached on (703) 308-4743.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Communications applicant wishes to submit by FAX should be submitted to FAX # (703) 305-4242 or (703) 305-3014.

F.C. Prats
June 14, 1999



FRANCISCO C. PRATS
PRIMARY EXAMINER
ART UNIT 1651